

AMENDED IN SENATE MAY 4, 2004  
AMENDED IN SENATE MARCH 31, 2004

**SENATE BILL**

**No. 1737**

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**Introduced by Senator Speier**

February 20, 2004

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An act to amend Sections 296, 296.1, 298.1, 299.5, and 300 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1737, as amended, Speier. DNA collection.

Under existing law, specified felony offenders, felony sex offenders, and persons convicted of terrorist activity are required to provide blood and saliva samples along with their prints for law enforcement identification analysis to be included in the state DNA database. It is a crime for convicted offenders to fail or refuse to provide any samples, specimens, or prints.

This bill would revise the provision to require buccal swab samples instead of saliva samples to be provided by convicted persons. The bill would impose the requirement to provide these identification samples, specimens, and prints on all, rather than just some, persons convicted of a felony and on all persons convicted of an offense requiring registration as a sex offender. The bill would exempt specified nonviolent drug possession offenders from having to provide these identification samples, specimens, and prints for the state DNA database. By revising the scope of application of existing crimes and by expanding collection requirements applicable to local officials, this bill would impose a state-mandated local program upon local governments.

This bill would make technical, nonsubstantive changes to these provisions and would make conforming changes to related provisions.

*The bill would provide that it is not the intent of the Legislature in enacting the bill to change existing confidentiality provisions regarding the DNA Databank and that the provisions of the bill shall only become operative if SB 1900 is chaptered and becomes operative.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. *It is not the intent of the Legislature in enacting*  
2 *this act to change existing confidentiality provisions regarding the*  
3 *DNA Databank.*

4 SEC. 2. Section 296 of the Penal Code is amended to read:

5 296. (a) (1) (A) Except as provided in subparagraph (B),  
6 any person who is convicted of any felony or any offense that  
7 imposes upon a person the duty to register in California as a sex  
8 offender under Section 290, or is found not guilty by reason of  
9 insanity of any felony or any offense that imposes upon a person  
10 the duty to register in California as a sex offender under Section  
11 290, shall, regardless of sentence imposed or disposition rendered,  
12 be required to provide buccal swab samples or two specimens of  
13 blood, ~~right thumbprints~~ *the right thumbprint*, and a full palm print  
14 impression of each hand for law enforcement identification  
15 analysis:

(B) Subparagraph (A) shall not apply to a person convicted of a nonviolent drug possession offense requiring probation and treatment pursuant to Section 1210.1.

(2) Any person who is required to register under Section 290 because of the commission of, or the attempt to commit, any offense specified in Section 290, and who is committed to any institution under the jurisdiction of the Department of the Youth Authority where he or she was confined, or is granted probation, or is or was committed to a state hospital as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, ~~shall be required to provide two specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each~~ *shall be required to provide buccal swab samples or two specimens of blood, the right thumbprint, and a full palm print impression of each* hand to that institution or, in the case of a person granted probation, to a person and at a location within the county designated for testing.

(b) The provisions of this chapter and its requirements for submission to testing as soon as administratively practicable to provide specimens, samples, and print impressions as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(c) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the databank and database specimens, samples, and print impressions as a condition of probation, parole,

1 or any plea of guilty, no contest, or not guilty by reason of insanity,  
2 to any of the offenses described in subdivision (a).

3 (d) At sentencing or disposition, the prosecuting attorney shall  
4 verify in writing that the requisite samples are required by law, and  
5 that they have been taken, or are scheduled to be taken before the  
6 offender is released on probation, or other scheduled release.  
7 However, a failure by the prosecuting attorney or any other law  
8 enforcement agency to verify *the* sample requirement or collection  
9 shall not relieve a person of the requirement to provide samples.

10 (e) The abstract of judgment issued by the court shall indicate  
11 that the court has ordered the person to comply with the  
12 requirements of this chapter and that the person shall be included  
13 in the state's DNA and Forensic Identification Database and  
14 Databank program and be subject to this chapter. However, failure  
15 by the court to enter these facts in the abstract of judgment shall  
16 not invalidate a plea, conviction, or disposition, or otherwise  
17 relieve a person from the requirements of this chapter.

18 ~~SEC. 2.~~

19 *SEC. 3.* Section 296.1 of the Penal Code is amended to read:

20 296.1. (a) Any person, including any juvenile, who comes  
21 within the provisions of this chapter for an offense set forth in  
22 subdivision (a) of Section 296, and who is granted probation, or  
23 serves his or her entire term of confinement in a county jail, or is  
24 not sentenced to a term of confinement in a state prison facility, or  
25 otherwise bypasses a prison inmate reception center maintained by  
26 the Department of Corrections, shall, as soon as administratively  
27 practicable, but in any case, prior to physical release from custody,  
28 be required to provide buccal swab samples or two specimens of  
29 blood, and thumb and palm print impressions as set forth in  
30 subdivision (a) of Section 296, at a county jail facility or other  
31 state, local, or private facility designated for the collection of these  
32 specimens, samples, and print impressions, in accordance with  
33 subdivision (f) of Section 295.

34 If the person subject to this chapter is not incarcerated at the time  
35 of sentencing, the court shall order the person to report within five  
36 calendar days to a county jail facility or other state, local, or private  
37 facility designated for the collection of specimens, samples, and  
38 print impressions to provide these specimens, samples, and print  
39 impressions in accordance with subdivision (f) of Section 295.

(b) If a person who comes within the provisions of this chapter for an offense set forth in subdivision (a) of Section 296 is sentenced to serve a term of imprisonment in a state correctional institution, the Director of Corrections shall collect the buccal swab samples or blood specimens, and thumb and palm print impressions required by this chapter from the person during the intake process at the reception center designated by the director, or as soon as administratively practicable thereafter at a receiving penal institution.

(c) Any person, including, but not limited to, any juvenile and any person convicted and sentenced to death, life without the possibility of parole, or any life or indeterminate term, who is imprisoned or confined in a state correctional institution, a county jail, a facility within the jurisdiction of the Department of the Youth Authority, or any other state, local, or private facility after a conviction of any crime, or disposition rendered in the case of a juvenile, whether or not that crime or offense is one set forth in subdivision (a) of Section 296, shall provide buccal swab samples or two specimens of blood, and thumb and palm print impressions pursuant to this chapter, as soon as administratively practicable once it has been determined that both of the following apply:

(1) The person has been convicted or adjudicated a ward of the court in California of a qualifying offense described in subdivision (a) of Section 296 or has been convicted or had a disposition rendered in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would have been punishable as an offense described in subdivision (a) of Section 296.

(2) The person's buccal swab samples or blood specimens, and thumb and palm print impressions authorized by this chapter are not in the possession of the Department of Justice DNA Laboratory as part of the DNA databank program.

This subdivision applies regardless of when the person was convicted of the qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state, or when disposition was rendered in the case of a juvenile who is adjudged a ward of the court for commission of a qualifying offense described in subdivision (a) of Section 296 or a similar crime under the laws of the United States or any other state.

1 (d) Any person, including any juvenile, who comes within the  
2 provisions of this chapter for an offense set forth in subdivision (a)  
3 of Section 296, and who is on probation or parole, shall be required  
4 to provide buccal swab samples or two specimens of blood, and  
5 thumb and palm print impressions as required pursuant to this  
6 chapter, if it is determined that the person has not previously  
7 provided these specimens, samples, and print impressions to law  
8 enforcement, or if it is determined that these specimens, samples,  
9 and print impressions are not in the possession of the Department  
10 of Justice. The person shall have the specimens, samples, and print  
11 impressions collected within five calendar days of being notified  
12 by a law enforcement agency or other agency authorized by the  
13 Department of Justice. The specimens, samples, and print  
14 impressions shall be collected in accordance with subdivision (f)  
15 of Section 295 at a county jail facility or other state, local, or  
16 private facility designated for this collection.

17 This subdivision shall apply regardless of when the crime  
18 committed became a qualifying offense pursuant to this chapter.

19 (e) When an offender from another state is accepted into this  
20 state under any of the interstate compacts described in Article 3  
21 (commencing with Section 11175) or Article 4 (commencing with  
22 Section 1189) of Chapter 2 of Title 1 of Part 4 of this code, or  
23 Chapter 4 (commencing with Section 1300) of Part 1 of Division  
24 2 of the Welfare and Institutions Code, or under any other  
25 reciprocal agreement with any county, state, or federal agency, or  
26 any other provision of law, whether or not the offender is confined  
27 or released, the acceptance is conditional on the offender  
28 providing buccal swab samples or blood specimens, and ~~palm and~~  
29 ~~thumb~~ *thumb and palm* print impressions pursuant to this chapter,  
30 if the offender was convicted of an offense which would qualify  
31 as a crime described in subdivision (a) of Section 296, or if the  
32 person was convicted of a similar crime under the laws of the  
33 United States or any other state.

34 If the person is not confined, the specimens, samples, and print  
35 impressions required by this chapter must be provided within five  
36 calendar days after the offender reports to the supervising agent or  
37 within five calendar days of notice to the offender, whichever  
38 occurs first. The person shall report to a county jail facility in the  
39 county where he or she resides or temporarily is located to have the  
40 specimens, samples, and print impressions collected pursuant to

1 this chapter. The specimens, samples, and print impressions shall  
2 be collected in accordance with subdivision (f) of Section 295.

3 If the person is confined, he or she shall provide the buccal swab  
4 samples or blood specimens, and thumb and palm print  
5 impressions required by this chapter as soon as practicable after his  
6 or her receipt in a state, county, local, private, or other facility.

7 (f) Subject to the approval of the Director of the Federal Bureau  
8 of Investigation, persons confined or incarcerated in a federal  
9 prison or federal institution located in California who are  
10 convicted of a qualifying offense described in subdivision (a) of  
11 Section 296 or of a similar crime under the laws of the United  
12 States or any other state that would constitute an offense described  
13 in subdivision (a) of Section 296, are subject to this chapter and  
14 shall provide buccal swab samples or blood specimens, and thumb  
15 and palm print impressions pursuant to this chapter if any of the  
16 following apply:

17 (1) The person committed a qualifying offense in California.

18 (2) The person was a resident of California at the time of the  
19 qualifying offense.

20 (3) The person has any record of a California conviction for a  
21 sex or violent offense described in subdivision (a) of Section 296,  
22 regardless of when the crime was committed.

23 (4) The person will be released in California.

24 Once a federal databank is established and accessible to the  
25 Department of Justice, the Department of Justice DNA Laboratory  
26 shall, upon the request of the United States Department of Justice,  
27 forward the samples taken pursuant to this chapter, with the  
28 exception of those taken from suspects pursuant to subdivision (b)  
29 of Section 297, to the United States Department of Justice DNA  
30 databank laboratory. The samples and impressions required by this  
31 chapter shall be taken in accordance with the procedures set forth  
32 in subdivision (f) of Section 295.

33 (g) If a person who is released on parole, furlough, or other  
34 release, is returned to a state correctional institution for a violation  
35 of a condition of his or her parole, furlough, or other release, and  
36 is serving or at any time has served a term of imprisonment for  
37 committing an offense described in subdivision (a) of Section 296,  
38 and he or she did not provide specimens, samples, and print  
39 impressions pursuant to the state's DNA databank program, the  
40 person shall submit to collection of buccal swab samples or blood



1 specimens, and thumb and palm print impressions at a state  
2 correctional institution.

3 This subdivision applies regardless of the crime or Penal Code  
4 violation for which a person is returned to a state correctional  
5 institution and regardless of the date the qualifying offense was  
6 committed.

7 ~~SEC. 3.~~

8 *SEC. 4.* Section 298.1 of the Penal Code is amended to read:

9 298.1. (a) As of the effective date of this chapter, any person  
10 who refuses to give any or all of the following, buccal swab  
11 samples or blood specimens, or thumb or palm print impressions  
12 as required by this chapter, once he or she has received written  
13 notice from the Department of Justice, the Department of  
14 Corrections, any law enforcement personnel, or officer of the court  
15 that he or she is required to provide specimens, samples, and print  
16 impressions pursuant to this chapter is guilty of a misdemeanor.  
17 The refusal or failure to give any or all of the following, a buccal  
18 swab sample or blood specimen, or thumb or palm print  
19 impression is punishable as a separate offense by both a fine of five  
20 hundred dollars (\$500) and imprisonment of up to one year in a  
21 county jail, or if the person is already imprisoned in the state  
22 prison, by sanctions for misdemeanors according to a schedule  
23 determined by the Department of Corrections.

24 (b) (1) Notwithstanding subdivision (a), authorized law  
25 enforcement, custodial, or corrections personnel, including peace  
26 officers as defined in Sections 830, 830.1, 830.5, and 830.55, or  
27 subdivision (d) of Section 830.2, may employ reasonable force to  
28 collect buccal swab samples or blood specimens, or thumb or palm  
29 print impressions pursuant to this chapter from individuals who,  
30 after written or oral request, refuse to provide those specimens,  
31 samples, or thumb or palm print impressions.

32 (2) The withdrawal of blood shall be performed in a medically  
33 approved manner in accordance with the requirements of  
34 paragraph (2) of subdivision (b) of Section 298.

35 (3) The use of reasonable force as provided in this subdivision  
36 shall be carried out in a manner consistent with regulations and  
37 guidelines adopted pursuant to subdivision (c).

38 (c) (1) The Department of Corrections and the Department of  
39 the Youth Authority shall adopt regulations governing the use of



1 reasonable force as provided in subdivision (b), which shall  
2 include the following:

3 (A) The term “use of reasonable force” shall be defined as the  
4 force that an objective, trained and competent correctional  
5 employee, faced with similar facts and circumstances, would  
6 consider necessary and reasonable to gain compliance with this  
7 chapter.

8 (B) The use of reasonable force shall not be authorized without  
9 the prior written authorization of the supervising officer on duty.  
10 The authorization shall include information that reflects the fact  
11 that the offender was asked to provide the requisite specimen,  
12 sample, or impression and refused.

13 (C) The use of reasonable force shall be preceded by efforts to  
14 secure voluntary compliance with this section.

15 (D) If the use of reasonable force includes a cell extraction, the  
16 regulations shall provide that the extraction be videotaped.

17 (2) The Board of Corrections shall adopt guidelines governing  
18 the use of reasonable force as provided in subdivision (b) for local  
19 detention facilities, which shall include the following:

20 (A) The term “use of reasonable force” shall be defined as the  
21 force that an objective, trained and competent correctional  
22 employee, faced with similar facts and circumstances, would  
23 consider necessary and reasonable to gain compliance with this  
24 chapter.

25 (B) The use of reasonable force shall not be authorized without  
26 the prior written authorization of the supervising officer on duty.  
27 The authorization shall include information that reflects the fact  
28 that the offender was asked to provide the requisite specimen,  
29 sample, or impression and refused.

30 (C) The use of reasonable force shall be preceded by efforts to  
31 secure voluntary compliance with this section.

32 (D) If the use of reasonable force includes a cell extraction, the  
33 extraction shall be videotaped.

34 (3) The Department of Corrections, the Department of the  
35 Youth Authority, and the Board of Corrections shall report to the  
36 Legislature not later than January 1, 2005, on the use of reasonable  
37 force pursuant to this section. The report shall include, but is not  
38 limited to, the number of refusals, the number of incidents of the  
39 use of reasonable force under this section, the type of force used,  
40 the efforts undertaken to obtain voluntary compliance, if any, and

1 whether any medical attention was needed by the prisoner or  
2 personnel as a result of force being used.

3 ~~SEC. 4.~~

4 *SEC. 5.* Section 299.5 of the Penal Code is amended to read:

5 299.5. (a) All DNA and forensic identification profiles and  
6 other identification information retained by the Department of  
7 Justice pursuant to this chapter are exempt from any law requiring  
8 disclosure of information to the public and shall be confidential  
9 except as otherwise provided in this chapter.

10 (b) All evidence and forensic samples containing biological  
11 material retained by the Department of Justice DNA Laboratory  
12 or other state law enforcement agency are exempt from any law  
13 requiring disclosure of information to the public or the return of  
14 biological specimens.

15 (c) Non-DNA forensic identification information may be filed  
16 with the offender's file maintained by the Sex Registration Unit of  
17 the Department of Justice or in other computerized databank  
18 systems maintained by the Department of Justice.

19 (d) The DNA and other forensic identification information  
20 retained by the Department of Justice pursuant to this chapter shall  
21 not be included in the state summary criminal history information.  
22 However, nothing in this chapter precludes law enforcement  
23 personnel from entering into a person's criminal history  
24 information or offender file maintained by the Department of  
25 Justice, the fact that the specimens, samples, and print impressions  
26 required by this chapter have or have not been collected from that  
27 person.

28 (e) The fact that the buccal swab samples or blood specimens,  
29 and print impressions required by this chapter have been received  
30 by the DNA Laboratory of the Department of Justice shall be  
31 included in the state summary criminal history information.

32 The full palm prints of each hand shall be filed and maintained  
33 by the Automated Latent Print Section of the Bureau of Criminal  
34 Identification and Information of the Department of Justice, and  
35 may be included in the state summary criminal history  
36 information.

37 (f) DNA and other forensic identification information shall be  
38 released only to law enforcement agencies, including, but not  
39 limited to, parole officers of the Department of Corrections,  
40 hearing officers of the parole authority, probation officers, the

1 Attorney General's office, district attorneys' offices, and  
2 prosecuting city attorneys' offices, or to a court or administrative  
3 tribunal, except as specified in this chapter. Dissemination of this  
4 information to law enforcement agencies and district attorneys'  
5 offices outside this state shall be performed in conformity with the  
6 provisions of this chapter. A defendant's DNA and other forensic  
7 identification information developed pursuant to this chapter shall  
8 be available to his or her defense counsel upon court order made  
9 pursuant to Chapter 10 (commencing with Section 1054) of Title  
10 6 of Part 2.

11 (g) (1) (A) Any person who knowingly uses an offender  
12 sample or DNA profile for other than criminal identification or  
13 exclusion purposes, or who knowingly discloses DNA or other  
14 forensic identification information developed pursuant to this  
15 section to an unauthorized individual or agency, for other than  
16 criminal identification or exclusion purposes, in violation of this  
17 chapter, shall be punished by imprisonment in a county jail not  
18 exceeding one year or by imprisonment in the state prison.

19 (B) Any person who, for the purpose of financial gain,  
20 knowingly uses an offender sample or DNA profile for other than  
21 criminal identification or exclusion purposes or who, for the  
22 purpose of financial gain, knowingly discloses DNA or other  
23 forensic identification information developed pursuant to this  
24 section to an unauthorized individual or agency, for other than  
25 criminal identification or exclusion purposes, in violation of this  
26 chapter, shall, in addition to the penalty provided in subparagraph  
27 (A), be punished by a criminal fine in an amount three times that  
28 of any financial gain received or ten thousand dollars (\$10,000),  
29 whichever is greater.

30 (2) (A) If any employee of the Department of Justice  
31 knowingly uses an offender sample or DNA profile for other than  
32 criminal identification or exclusion purposes, or knowingly  
33 discloses DNA or other forensic identification information  
34 developed pursuant to this section to an unauthorized individual  
35 or agency, for other than criminal identification or exclusion  
36 purposes, in violation of this chapter, the department shall be liable  
37 in civil damages to the donor of the DNA identification  
38 information in the amount of five thousand dollars (\$5,000) for  
39 each violation, plus attorney's fees and costs. In the event of  
40 multiple disclosures, the total damages available to the donor of



1 the DNA is limited to fifty thousand dollars (\$50,000) plus  
2 attorney's fees and costs.

3 (B) (i) Notwithstanding any other law, this shall be the sole  
4 and exclusive remedy against the Department of Justice and its  
5 employees available to the donor of the DNA.

6 (ii) The Department of Justice employee disclosing DNA  
7 identification information in violation of this chapter shall be  
8 absolutely immune from civil liability under this or any other law.

9 (3) It is not a violation of this section for a law enforcement  
10 agency to publicly disclose the fact of a DNA profile match.

11 (h) It is not a violation of this chapter to furnish DNA or other  
12 forensic identification information of the defendant to his or her  
13 defense counsel for criminal defense purposes in compliance with  
14 discovery.

15 (i) It is not a violation of this section to release DNA and other  
16 forensic identification information developed pursuant to this  
17 chapter to a jury or grand jury, or in a document filed with a court  
18 or administrative agency, or as part of a judicial or administrative  
19 proceeding, or for this information to become part of the public  
20 transcript or record of proceedings.

21 (j) It is not a violation of this section to include information  
22 obtained from a file in a transcript or record of a judicial  
23 proceeding, or in any other public record when the inclusion of the  
24 information in the public record is authorized by a court, statute,  
25 or decisional law.

26 (k) It is not a violation of this section for the DNA Laboratory  
27 of the Department of Justice or a local public laboratory to use  
28 anonymous DNA records for training, research, statistical analysis  
29 of populations, or quality control.

30 (l) It is not a violation of this section to disseminate statistical  
31 or research information obtained from the offender's file, the  
32 computerized databank system, any of the DNA laboratory's  
33 databases, or the full palm print file, provided that the subject of  
34 the file is not identified and cannot be identified from the  
35 information disclosed. All requests for statistical or research  
36 information obtained from the DNA databank shall be cataloged  
37 by the Department of Justice. Commencing January 1, 2000, the  
38 department shall submit an annual letter to the Legislature  
39 including, with respect to each request, the requester's name or  
40 agency, the purpose of the request, whether the request is related

1 to a criminal investigation or court proceeding, whether the  
2 request was granted or denied, any reasons for denial, costs  
3 incurred or estimates of the cost of the request, and the date of the  
4 request.

5 (m) The Department of Justice shall make public the  
6 methodology and procedures to be used in its DNA program prior  
7 to the commencement of DNA testing in its laboratories. The  
8 Department of Justice shall review and consider on an ongoing  
9 basis the findings and results of any peer review and validation  
10 studies submitted to the department by members of the relevant  
11 scientific community experienced in the use of DNA technology.  
12 This material shall be available to criminal defense counsel upon  
13 court order made pursuant to Chapter 10 (commencing with  
14 Section 1054) of Title 6 of Part 2.

15 (n) In order to maintain the computer system security of the  
16 Department of Justice DNA and Forensic Identification Database  
17 and databank program, the computer software and database  
18 structures used by the DNA Laboratory of the Department of  
19 Justice to implement this chapter are confidential.

20 (o) Nothing in this section shall preclude a court from ordering  
21 discovery pursuant to Chapter 10 (commencing with Section  
22 1054) of Title 6 of Part 2.

23 ~~SEC. 5.~~

24 *SEC. 6.* Section 300 of the Penal Code is amended to read:

25 300. Nothing in this chapter shall limit or abrogate any  
26 existing authority of law enforcement officers to take, maintain,  
27 store, and utilize DNA or forensic identification markers, buccal  
28 swab samples or blood specimens, or thumb or palm print  
29 impressions for identification purposes.

30 ~~SEC. 6.~~

31 *SEC. 7.* No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution for  
33 certain costs that may be incurred by a local agency or school  
34 district because in that regard this act creates a new crime or  
35 infraction, eliminates a crime or infraction, or changes the penalty  
36 for a crime or infraction, within the meaning of Section 17556 of  
37 the Government Code, or changes the definition of a crime within  
38 the meaning of Section 6 of Article XIII B of the California  
39 Constitution.

1     However, notwithstanding Section 17610 of the Government  
2     Code, if the Commission on State Mandates determines that this  
3     act contains other costs mandated by the state, reimbursement to  
4     local agencies and school districts for those costs shall be made  
5     pursuant to Part 7 (commencing with Section 17500) of Division  
6     4 of Title 2 of the Government Code. If the statewide cost of the  
7     claim for reimbursement does not exceed one million dollars  
8     (\$1,000,000), reimbursement shall be made from the State  
9     Mandates Claims Fund.

10    *SEC. 8. This act shall only become operative if Senate Bill*  
11    *1900 is chaptered and becomes operative.*

